IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.NO.5135 OF 1995

DATED 18-1-2007

BETWEEN

The Depot Manager,
APSRTC, Pargi Depot, Ranga Reddy District.

.. PETITIONER

And

The Presiding Officer,
Labour Court-III, Hyderabad and another.

…RESPONDENTS

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO.5135 of 1995

ORDER:

This writ petition is filed challenging the award passed in I.D.No.461 of 1992 dated 6.9.1993 on the file of the Labour Court-III, Hyderabad.

The petitioner is the management and respondent No.2 is the workman. It appears that the services of the 2nd respondent-workman were terminated due to absenteeism by invoking Regulation 39(3)(a) of the A.P.S.R.T.C.Employees (Leave) Regulations, 1963 (for short the 'Regulations') with effect from 8.3.1982. On 19.10.1990, the 2nd respondent filed an application under Section 2-A(2) of the Industrial Disputes Act, 1947 (for short 'the Act') before the Labour Court-III, Hyderabad. It was his contention that he was removed from service on the ground of absenteeism without conducting any enquiry into the matter and by invoking Regulation 39(3)(a) of the Regulations. Therefore, the same is contrary to the provisions of Section 25-F of the Act and also the judgment of a Division Bench of this Court in **Md.Abdul Khader vs. APSRTC Corporation by its General Manager, Musheerabad**[1].

A detailed counter affidavit has been filed by the petitioner management before the Labour Court denying the allegations, inter alia stating that the very petition itself is not maintainable and the same is liable to be dismissed.

After a detailed consideration of the matter, the Labour Court allowed the claim petition following the above stated judgment of this Court and granted 25% of the backwages for the period he was out of service apart from granting reinstatement, continuity of service etc., Aggrieved by the same, the present writ petition is filed by the management.

Learned counsel for the petitioner contended that though the

principle is settled, the practice of termination of service of the employees in APSRTC by invoking Regulation 39(3)(a) of the Regulations is deprecated, the Labour Court ought not to have awarded backwages at the rate of 25% for the period the petitioner was out of service. The very dispute was raised after 8 years of his termination of services as workman and, in fact, when the services of the workman were terminated, Section 2-A(2) of the Act was not available. Therefore, the very claim petition was not maintainable.

Learned counsel for the respondent supported the award passed by the Labour Court and submitted that since the termination of the petitioner by invoking Regulation 39(3)(a) of the Regulations is ex facie illegal, the labour Court ought to have granted full backwages. Instead, it had taken a lenient view and granted only 25% backwages for the period the workman was out of service and no ground is made out calling for interference of this Court in to the award passed by the Labour court.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the award under challenge and the material made available on record. It is a fact that the issue that is involved in this case is squarely covered by the judgment of the Division Bench of this Court in **Md.Abdul Khader's case**(supra). But the question is as to whether the respondent workman is entitled for backwages though he has raised such a dispute, after a lapse of more than 8 years. I am of the opinion that though laches on the part of the workman may not be considered for the purpose of entertaining a petition, the Labour Court ought to have taken the laches into consideration for the purpose of awarding backwages, and could have denied the same. Instead, it has granted some charity of 25% of the backwages, which is not warranted in a case of this nature. The respondent approached the Labour Court

after 8 years and, therefore, he is not entitled for any backwages though he is entitled for reinstatement and other benefits as awarded by the Labour Court.

Therefore, the writ petition is allowed and the judgment of the Labour Court is set aside to the extent of awarding back wages. The rest of the award is confirmed. Accordingly, the writ petition is partly allowed. No costs.

C.V.RAMULU,J

Dated 18.1.2007
msv

---

[1] 1983 ALT 301